Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 536

Hearing Date: February 2, 2001
Committee On: Revenue

Introducers: (Dierks, Cudaback, Cunningham, Schrock, Vrtiska)
Title: Change ethanol production incentives and impose an excise tax

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

6	Yes	Senators Coordsen, Dierks, Hartnett, Janssen, Landis and Raikes
2	No	Senators Redfield and Wickersham
0	Present, not voting	
0	Absent	

Proponents:	**Representing:**
Senator Merton L. Dierks	Introducer
Senator Doug Cunningham	Co-Introducer, himself and Husker Ag Processing
Senator Jim Cudaback	Co-Introducer
Steve Sorum	Nebraska Ethanol Board
Mick Mines	City of Blair
Paul Kenney	Himself and KAAPA
LaMoine Smith	Nebraska Corn Growers and KAAPA
Craig Weber	Himself
Don Batie	Nebraska Farm Bureau Federation
Donald Noecker	KN Energy
Doug Nagel	Himself
Warren Lingenfelter	Himself and Husker Ag Processing
Dennis Sanne	C.O.R.E. Development Inc.
Gary Kuester	Husker Ag Processing LLC
Fredrick J. Knievel	Husker Ag Processing LLC
Kelly Hodson	Husker Ag Processing LLC
Walter Aschoff	Osmond Venture Resources
Loran Schmit	Agricultural Processing of NE, Husker Ag Processing, Kearney Area Ag Producers Assn.
John K. Hansen	Nebraska Farmers Union
Lynn Chrisp	Nebraska Corn Growers Association

Opponents:	**Representing:**
Richard Halvorsen	Himself
Neutral:	**Representing:**
Terry Klopfenstein	University of Nebraska

Summary of purpose and/or changes:

LB 536 would extend the current ethanol production incentive and enact a new incentive for production coming on line in 2001. The incentives are to be funded by a three-fourths cent per bushel of corn or hundredweight of grain sorghum excise tax and General Funds. Finally, the bill would require those companies receiving the incentive to sign a contract with the state that governs incentives and responsibilities.

SECTION BY SECTION

Section 1 would incorporate the new section 7 into the Ethanol Development Act.

Section 2 would amend section 66-1344 to extend the current, 7½ cents per gallon incentive for five years rather than three. The bill would also provide for a new, 20 cent per gallon incentive for increased production that had not received credits before June 30, 2001, and has a capacity for production of at least 100,000 gallons annually. The credit may be received for no more than 25 million gallons annually and for no more than 125 million gallons over the five year period. Facilities shall not be eligible to receive credits under more than one section simultaneously and the maximum credit allowed in this section includes all other credits received by the facility.

Section 3 would amend section 66-1345 to extend the termination of the Ethanol Production Incentive Cash Fund from June 30, 2004 to June 30, 2010.

Section 4 would amend section 66-1345.01 to impose a new excise, or check-off on corn and grain sorghum first sold in Nebraska between October 1, 2001 and January 1, 2006. The rate of the check-off would be three-fourths cent per bushel of corn or hundredweight of sorghum.

Section 5 would amend section 66-1345.02 to continue the responsibility of the Department of Agriculture to calculate its costs in administering the check-off and seek reimbursement from the EPIC Fund.

Section 6 would amend section 66-1345.04 to provide for a General Fund contribution to the EPIC Fund of $7 million per fiscal year from 2001-02 through 2005-06.

Section 7 is a new section that requires the Tax Commissioner and the producer to sign a written contract. The producer is to agree to produce the ethanol and the Tax Commissioner, on behalf of the state, agrees to provide the incentive. No credit shall be provided to any producer that fails to produce ethanol in compliance with the agreement. The agreement is to contain the name of the producer, the address of the facility, the date of eligibility for credits, and the production capacity before and after the expansion.

Section 8 would repeal the original sections.

Explanation of amendments, if any:

The Committee amendments replace the bill but the changes from the green copy are as follows:

1) The Committee amendments strike the provision that would have extended the 7 ½ cents per gallon incentive from three years to five.

2) They also shorten the deadline by which plants must be in production to receive benefits from June 30, 2009 to June 30, 2004.

3) The committee amendments strike current law providing for the pro-ration of benefits if the EPIC Fund runs short. They would also restore current law that transfers any excess funds in the EPIC Fund at the end of the incentive period to the commodity marketing boards.

4) The amendments lower and lengthen the incentive program. Instead of receiving benefits for up to 25 million gallons for five years, under the amendment plants may receive credits for up to 18,750,000 gallons for seven years. The total of $25 million per new plant would remain the same.

5) The revenue stream would also be lowered in amount but extended in time. The amendment reduces the check-off from ¾ cent per bushel of corn or cwt. of grain sorghum to ½ cent. The General Fund contribution is also reduced from $7 million for five years ($35 million total) to $3 million for seven years ($21 million total).

6) Finally, new section 8 would impose an excise tax of 50-cents per dry ton of distillers' grain or gluten feed generated from an ethanol plant that has or will receive credits under the act. The tax is to be imposed through December 31, 2007 and is to be remitted to the Department of Revenue and credited to the Ethanol Production Incentive Cash Fund.

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Senator William R. Wickersham, Chairperson